

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

00256

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ELIZABETH BESOBASOW

Plaintiff,

DEFENDANTS AFFIDAVIT IN SUPPORT
OF CROSS MOTION DEMANDING A HEARING ON THE WHEREABOUTS
OF THE ASSETS WHICH JUSTICE TOLUB AWARDED TO M.
MELNITZKY FOR PAYMENT OF CHILD SUPPORT AS WELL AS AN
ACCOUNTING FROM E.BESOBASOW REGARDING THE ASSETS
VALUED AT OVER \$3,000,000 OVER WHICH SHE AND HER
ATTORNEY VIRGINIA LOPRETO HAVE MAINTAINED EXCLUSIVE
CONTROL AND PREVENTED FROM BEING DISTRIBUTED

against-

MICHAEL MELNITZKY

Defendant

Index No 300220/94

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MICHAEL MELNITZKY, being duly sworn, deposes and says:

1. This cross motion including my demand for cross examination of plaintiff is intended to make it impossible for plaintiff and her attorney to continue to conceal the actual amount of money and property they have removed from my 50% share of the equitable distribution awarded to me by the Oct. 15, 1999 judgment of Hon. Justice Tolub. attached as exhibit "A"
 2. The Oct. 1999 money judgment divided the assets valued at over \$3,000,000 at 50% to each party including myself, however neither I nor any representative of mine have ever received anything from the above awarded distribution which includes the principal money used to calculate as well as the income intend to pay for child support. Plaintiff and her attorney have succeeded in evasion and concealment of this fact.
 3. The request by me to obtain and/or inspect my above mentioned share of the assets contained in the Bank safe deposit boxes has been repeatedly opposed and denied because of plaintiff and her attorney Ms. LoPreto and this cross motion demands an accounting of the whereabouts of the above mentioned assets which the court awarded to me but which my adversaries improperly continue to hold in their possession.
- The payment of the child support obligation (which is under challenge on the record) has been deliberately and improperly obstructed by plaintiff and her attorney. They have misled the court into believing that the equitable distribution has been implemented on

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behalf of both parties although neither I nor any representative of mine has obtained anything from the above described 1999 distribution of the approximate \$ 3,000,000.

5. In addition to an accounting and inspection of the assets this cross motion is requesting an opportunity for sworn cross examination of plaintiff including an evidentiary hearing to exercise my extremely relevant and lawful rights to confront plaintiff and her attorney who are concealing important facts and evidence regarding the above circumstances and assets.

6. Besides offsetting the demanded child support against the my assets being held by plaintiff and her attorney the expected evidence and testimony is intended to illustrate varied deception misconduct and unlawful behavior as well as a long and deliberate abuse of matrimonial law to obtain improper control of my family and pre marital property and money.

7. Not only has plaintiff improperly seized both shares of the 50 % distribution of the assets including the money intended for my payment and calculated of child support but plaintiff and Ms. LoPreto have improperly obstructed the presence of either myself or my representatives during their unsupervised removals of money assets and property from the Bank Safe deposit boxes. Critically the court granted me the right of representation and presence during my adversary's entries into the safe deposit boxes however my adversaries have obstructed this critical right in order to engage in improper unsupervised handling of the assets including my collection of 750 watches.

(Attached hereto please see order of Justice Fisher Brandveen exhibit "B" allowing my personal presence at the safe deposit entries, and the order of Justice Tolub exhibit "C". allowing the presence of my representatives.

8. The procedures conduct and method to determine this cross motion and plaintiff's demand for \$169,969.31 is at this point a critical measure of whether my self representation will obtain fair treatment and an opportunity to confront the misconduct of plaintiff and her attorney. The above prima facie facts and circumstances raise the question of whether sworn cross examination and the rules of due process will be applied to my pro se litigation of this prolonged conflict.

9. In the current instance plaintiff Ms. Besobrasow and Ms. LoPreto are seeking to continue avoiding legitimate calculation and accounting for the money awarded to me

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which they already have taken into possession This money must be treated as offsetting the claims being made for child support such as it is and without prejudice to my current challenges.

10. Above all this cross motion seeks the right to cross examine plaintiff under oath and establish a lawful record of the handling of the assets over which plaintiff and her attorney have remarkably and improperly succeeded maintaining under their exclusive control since 1998 while preventing representation from my side to participate and monitor plaintiff's conduct during their removals from the Bank safe deposit boxes.

11. The above circumstances reflect all of the worst possible results that lawful conduct in an American Court are strictly required to prevent. At this stage this case must be addressed under the rules of law including due process or be presented to the police and or the district attorney as well as the newspaper press regarding the seizure of my safe deposit boxes for ten last years including my lifetime assets and that of my family while I am still waiting to be granted the right to question plaintiff under oath and on the record about this matter.

12. Under the circumstances Justice Gische must indeed note my motions requesting access even to the 50% of my original assets which was awarded to me by Justice Tolub and constitutes the principal basis for calculating and paying child support. Plaintiff and Ms. LoPreto seized these assets entirely and by deceptive persuaded this court to assume that distribution had been conducted for both parties.

13. Exhibit "D" contains important examples of my motions requesting court intervention regarding child support issues and obstructions in addition to my complaints of valuable watches missing from the inventory lists of the safe deposit contents.

14. In light of the opportunity for conversion and fraud which the attorney Ms. LoPreto had created by recklessly deceiving the court and by making false personal attacks against my efforts at self representation the attached exhibit "E" is directed to the Departmental Discipline Committee of the Supreme Court. It describes the above mentioned proper conduct of Ms. LoPreto as well as her use of the matrimonial laws to transfer assets improperly by dishonest maneuvers, personal slander and violation of fiduciary responsibility.

15 This court is also reminded of its own obligation to the Rules of the Chief Administrator

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Section 100.3 (D) (2). which state that

A Judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Code of Professional Responsibility shall take appropriate action.

16. In the current application for \$ 169,699.31 in child support money Ms. LoPreto and plaintiff Ms. Besobrasow are attempting to obtain improper assistance from this court to further dispose of the remaining collection of items in the safe deposit boxes while obstructing inspection and recording of the items I reported stolen from the safe deposit boxes while under the exclusive control of Ms. LoPreto and plaintiff.
17. The transfer of the watch collection to Christie's Gallery before I inspect what remains of the contents will expose Christies to sharing the burden of responsibility for missing items and improperly relieving plaintiff and her associates from bearing the entire responsibility for missing valuable items.
18. No further handling of the contents of the safe deposit property should be permitted to any party before I inspect and record the contents of the safe deposit boxes which is at least half if not totally mine and which only plaintiff and her attorney have had the opportunity to handle.
19. This court is hereby reminded that Judiciary law 487 requires triple damages against an attorney for the improper conduct illustrated above.
20. The court must not cooperate in incorporating Christie's Gallery in sharing the burden of missing watches with plaintiff and her associates who have also concealed the evidentiary tags which were attached to the items and were hidden from appearance in the photographs.
21. This court is therefore again provided with the documentation identifying examples of items missing and assumed stolen from the safe deposit boxes while under the specific control of Ms. LoPreto, Ms. Besobrasow and their associates.
22. Attached hereto as exhibit "F" are pages from the inventory of my safe deposit property submitted as part of discovery to Ms. LoPreto and the court prior to the inventory which Ms. LoPreto conducted with her associates. As before the circled listings describe items which are missing from the inventory of Ms. LoPreto but which I therefore claimed to be stolen.

page one shows a Patek Philippe Wrist purchased 11.17.81.

page two shows a perpetual chronograph which was made by Rolex and

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29. The following requests contained in the notice of cross motion are entirely supportable on the basis of fundamental due process law especially at this stage of the proceeding.

A. DEMANDING A HEARING REGARDING THE ASSETS WHICH JUSTICE TOLUB GRANTED TO M. MELNITZKY FOR PAYMENT OF CHILD SUPPORT BUT WHICH PLAINTIFFE E. BESOBASOW AND HER ATTORNEY HAVE SEIZED AND CONTROLLED FOR THEMSELVES WHILE LEADING THIS COURT TO BELIEVE THAT EQUITABLE DISTRIBUTION HAD BEEN IMPLEMENTED FOR BOTH PARTIES

B. DEMANDING AN ACCOUNTING OF THE WHEREABOUTS OF THE ASSETS VALUED AT OVER \$3,000,000 WHICH JUSTICE TOLUB DIVIDED AT 50% TO EACH PARTY BUT WHICH PLAINTIFF AND HER ATTORNEY HAVE KEPT UNDER EXCLUSIVE CONTROL. SUBJECTED TO CONVERSION AND PILFERING WHILE PREVENTING M. MELNITZKY OR HIS REPRESENTATIVE FROM OBTAINING A SINGLE DOLLAR OR OBSERVING THE UNSUPERVISED ENTRIES INTO THE SAFE DEPOSIT BOXES CONTRARY TO THE ORDERS OF THE COURT

C. BEFORE ANY PARTY SUCH AS CHRISTIES GALLERY IS PERMITTED TO HANDLE THE SAFE DEPOSIT ITEMS DEFENDANT MELNITZKY DEMANDS THE RIGHT TO INSPECT AND RECORD THE CONTENTS OF HIS SAFE DEPOSIT BOXES TO DETERMINE WHAT ACTUALLY REMAINS OF THE 750 ITEMS AS WELL AS THE EVIDENTIARY TAGS WHICH PLAINTIFF AND HER ATTORNEY HAD CONCEALED FROM THE PHOTOGRAPHIC RECORD OVER WHICH THEY EXERCISED EXCLUSIVE AND DISHONEST CONTROL.

D. DEMANDING AN EVIDENTIARY HEARING REGARDING THE ABUSE OF VISITATION AND CUSTODIAL CONDUCT AIMED AT CHANGING CUSTODY IN FAVOR OF DEFENDANT MYSELF BASED ON PLAINTIFFS PARENTAL VIOLATIONS WHICH PLAINTIFF AND HER ATTORNEY HAVE CONCEALED FROM THE COURT IN THE SAME FASHION AS IS REVEALED IN THE ABOVE MENTIONED FINANCIAL DISHONESTY AMOUNTING TO A PATTERN OF MANIPULATION AND DISHONORABLE DECEIT OF THE COURT BY WHICH A RECORD OF RELEVANT EVIDENCE WAS DELIBERATELY OBSTRUCTED FROM BEING APPLIED AS THE DOCTRINE OF THE BEST INTEREST OF THE CHILDREN REQUIRES FROM THIS COURT.

E. DEMANDING SANCTIONS AGAINST THE ATTORNEY MS. VIRGINIA LOPRETO ACCORDING TO THE JUDICIARY RULE 487 AWARDED TRIPLE DAMAGES FOR THE ABOVE DESCRIBED MISCONDUCT INCLUDING THE DELIBERATE DECEIT OF THE COURT REGARDING THE MISHANDLING OF THE EQUITABLE DISTRIBUTION ASSETS AND FOR THE AUDACITY OF ATTEMPTING TO OBTAIN AREARS OF CHILD SUPPORT AFTER HAVING IMPROPERLY SEIZED, CONTROLLED AND CONVERTED THE ASSETS AWARDED BY JUSTICE TOLUB TO DEFENDANT FOR THE VERY CHILD SUPPORT WHICH THEY CURRENTLY DEMAND.

30. The complaint to the Departmental Discipline Committee of the Supreme Court attached as exhibit "E" is extremely appropriate for this court to note in light of the misconduct of this case and remains to be addressed in sworn testimony from both sides rather than personal slanders of plaintiff and her attorney.

31. As stated previously Ms. LoPreto misinformed the court to gain preference and exclusive control over the 1998 inventory procedures of my Bank safe deposit boxes with hundreds of items valued at over \$3,000,000. By concealing the evidence attached to the 750 valuable items therein she succeeded in having the entire property declared as marital and subjected to a 50%

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division between myself and my former wife in the 1999 judgment of the Hon. Justice Tolub.

32. My own evidence submitted to Justice Tolub was derided by Ms. LoPreto and by Justice Tolub and improperly it was never examined when Justice Tolub changed his mind after granting me leave to submit the evidence with my post trial memorandum of law. This extraordinary violation is yet to be resolved and I consider Justice Tolub to have been deceived by the falsehoods and misleading conduct of the attorney Ms. LoPreto which is covered by judicial law 487 as well as by the rules of the CPLR 5015.

33. This court is requested to act in accordance with CPLR 5015 to correct the outcome and the facts on the basis of the evidence which I have the right to present at the request hearing or at a trial which the prima facie evidence calls for.

34. For example the 250 invoices from Sothebys, Christie's, Doyle etc. in the court records which date the property in the boxes as being purchased prior to the marriage of 1984 will necessarily be presented to the newspaper press demonstrating a hoax against the law and equitable distribution rules, especially in any effort at selling these items at a Christie auction.

35. Justice Tolub and plaintiff ridiculed my assertions that some of these items were the property of my family from the second world war era and reflect an important history which I wish to maintain.

36. Indeed a major portion of the items are not from my family but represent my collection (when I was employed at Sothebys) in an effort to rebuild the collection looted during Nazi rule. It is hardly appropriate or seemly for this court to participate in allowing a second looting of the collection which I have rebuilt prior to the marriage because Justice Tolub under the influence of my adversary could not be bothered to examine the invoices dated prior to 1984.

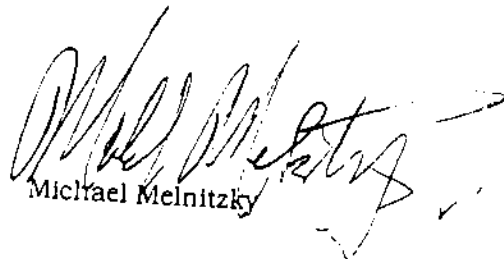
37. In light of these invoices and the contents in the safe deposit boxes which plaintiff and her attorney subject to pilfering it is hardly appropriate to allow plaintiff to complain about secreted assets which she and her attorney have not managed to seize in their application of matrimonial law to seize property that is lawfully not theirs and property that even after being subjected to equitable distribution is being subjected to pilfering and conversion.

38. This effort is intended to make it extremely uncomfortable to continue to ridicule the fact that the 250 invoices from Sothebys Christie Phillips Doyle and Plaza galleries are all

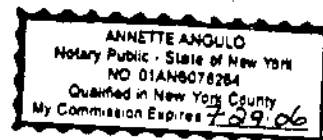
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representation remains to be further addressed with the question of whether this court is prepared to assume the responsibility which is called for in light of the events described above. That central question is at issue in the relief requested by this motion.

45. Whereof it is respectfully requested that my instant motion be granted in its entirety along with such additional relief that this Court may deem appropriate. No such motion has been previously made.


Michael Melnitzky





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INVENTORY OF MISSING SAFE DEPOSIT ITEMS

(1)

Remplish

152 1/2" case Uniquel # 2443 Engraved
 123 Jls Special Railway 1/2 full plate Superflame in gold
 and Michel contacts Polhem gold Swiss + settings #1201979
 circa 1884 - Dial RR double scale 1/2 inch X 1/2 inch. Run-Xt
 Q H A

81 10 21

Zentle

5 1/4" case EER #13052 plain clean
 yellow gold in good cond. Have 17 pl. 3 Hrs # 2040923 1/2".
 Hummel Reg. Clean + Heavy stops + go Dial Turned Silver
 metallic strong black Roman Num. Attractive - Deco.
 87 Q OF En

430

Sulphured

5 1/4" and the figure in complex
 form deeply fouled on back - smooth worn but still
 and Artistic - Dial in Multi color gold + raised
 numbers - Xlt Gold. Have Appleton 17
 Micro Reg. Swiss 2 color Michel + gold # 7465927.
 original case imported or made up for this use.
 This is gold settings Xlt.
 Q O E

11/17/81

PATEK PHILIPPE WRIST WATCH

P.P. SWISS

11 17 81

No. 555051. m. 1450 - Dial with white
 diamond chapters - Sub Seconds. R.

Xlt + Gold

39 W.W.

Moivre - Swiss W.W.

Carbon shape similar 4000-4000 with
 pattern + Xlt attached band
 in Xlt Cond.

EXHIBIT C

00269

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Swiss pop chro. H. cut. ch. " with Date Pink GOLD (2)
 Black Silver Matte Bar Hum. Sweep Sec. Small num Auto.
 Bessel Fine Fluted All in Xlent and Run Xit JOH 825
 78 WWQ

SWISS pop date just Super chro. ch. H. cut
 Black Dial gold Phos. Hum. Bar Sweep Sec. Auto white
 Bessel Fully Fluted Hagn. Date Run X All Xit 880
 79 WWQ

Elgin. Mat $\Delta 2 \frac{1}{8}$ plain base 12533.
 Keystone Hono Swirey Some wear smooth in V.G. and.
 Hove. 3460364 Full plate Nickel Gold pl. Letter. H.G. JOH
 White Dial + hands in V.G. and. 225
 90 QOA

6 28 83

Elgin. Mat H.C. Lalis $1 \frac{3}{4}$ D 18K 2.6 g BW.C.G. 295267
 Black Enamel Lovers eye + flower. Scalloped fully
 V-curve dial + black flowers Hunt and Super. Case
 Engraved while Emma Letter. Hove Nickel 1370.
 54 L & H CTA 15 ft. H.G. Runy Dial + hand Xit. 60

Mat 6/29/83

Elgin. Mat. 2" D 14K 3.9 BW.C.G. 757975.
 Swirl Burst from center over edge. Super design
 Some wear smooth in V.G. and. Engraved while
 W.C. Clark 1897 etc. Hove gold 6135752 Reg
 Unt. orig. 15 ft. in Letter. Dial + hands Xit. Runy 4
 81 QHA

00270

③

③

Jewelry - OF Rectangular
plain case #181158 Xentend. No Name
Have H.G. #2 48956 Ring - Steel Pls in Settings
Dial Deco style Roman Numerals radiating
- Shells 3rd Secs. - 10 5' 82
G O F E

5430 82 10 19

00521

SWISS - WW. Automatic
gold hands + chapter Silver Swiss
dial - All in Xentend
50 GWW

SWISS - WW. Rectangular with mesh.
dark chocolate case - Brown dial
Roman chapter + hands
Tillman #60. Xentend Case Ring Xent
51 QWW Harmonic - Z VOK

143

Apple P.
SWISS WW. Rectangular Curved
pale on horizontal
9405 style Case #676334 12 2442 Have 294009
All in Xentend Case Ring Xent 831009
52 QWW

Lucien Picard WW
in a 50s style. Gold hands + chapter Silver Mesh
dial Sub See Ring Xent
QWW

H.R. Ekman - OF Swiss White
extremely flat Yung. 1775 Silver Dial.
Case H.R. Ekman given + J.E. Caldwell #27205
Have Mesh in 50s Mesh No 27205 12 2442
+ 200 Ring Xent.

Ex

0621 00271
(1)

**INVOICES OF MISSING SAFE DEPOSIT ITEM
SHOWING DATES OF PURCHASE**

(212) 570-4842
New York NY 10021

SALE No. 412
DATE 11-17-87
TEL No. _____
RESALE No. _____

NAME MELNITSKY, MIRIAM
ADDRESS _____

Paddle No. I
OB

LOT No	Amount	LOT No.	Amount	LOT No	Amount
47	1400	B/F MAXED LOT		B.F	
51	425	197	325	BRACELET	
54	125	208	150	COINS	
80	200	BRACELET			
98	125	PEN			
117	170	PEN - T.D			
108	130	BOX		SUBTOTAL	3525
305	---			PREMIUM	35
179	325	BRACELET		BALANCE	3,87
186	150	COINS		TAX @ %	
C/Fwd		C/Fwd		TOTAL	

RECEIVED \$ 3,87
DATE 11/17/87
BY RAT
CASH \$ 16.20
CHECK U.S. \$ 328
OTHER \$ _____

D.N.P.
DATE _____
BY _____
INVOICED ☐
TELEPHONED ☐

Shipping instruction
Pick up ☐
UPS ☐
U.S. Mail ☐
Rush ☐
Air Freight ☐
Other ☐
Insured ☐
Value \$ _____

CREDIT REFERENCE

EXHIBIT D

Please note the sale number and invoice number on your remittance.
Send remittance to Phillips, 867 Madison Ave., New York, N.Y. 10021

ATEK PHILIPPE
1400 + 140
= \$ 1540